

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7219

BILL NUMBER: SB 391

NOTE PREPARED: Jan 5, 2013

BILL AMENDED:

SUBJECT: Crimes Concerning Agriculture and Livestock.

FIRST AUTHOR: Sen. Yoder

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill enhances the crimes of theft, criminal mischief, criminal trespass, burglary, and criminal conversion if:

1. The offense is committed on an agricultural operation, or
2. The subject of the offense is an agricultural operation or livestock.

The bill makes it unlawful recording of agricultural operations, a Class A misdemeanor, for a person to:

1. Enter real property that is owned by another person and on which agricultural operations are being conducted; and
2. Take a photograph of or make a video recording or motion picture of the real property, structures located on the real property, or the agricultural operations being conducted on the real property; without the written consent of the owner of the real property or an authorized representative of the owner.

The bill requires the Board of Animal Health to establish a registry of persons convicted of crimes concerning agricultural operations and livestock.

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Board of Animal Health:* The State Department of Animal Health could incur some cost to create a registry of persons convicted of crimes concerning agricultural operations and livestock. The impact is probably minor.

Penalty Provisions: The bill makes various change to the penalties for crimes of farm property, including the following.

1. A person who damages an agricultural structure with fire commits arson, a Class B felony, instead of a Class C felony unless a person is injured, in which case the penalty is a Class A felony.
2. A person who breaks and enters a structure used for agricultural operation with the intent to commit a felony commits a Class B felony instead of a Class C felony unless a person is injured, in which case the penalty is a Class A felony.
3. A person who commits criminal mischief on an agricultural operation is guilty of a Class D felony instead of a Class B misdemeanor.
4. A person who commits theft of livestock commits a Class C felony instead of a Class D felony if the value of the livestock is less than \$100,000. Under Current law it is only a Class C felony if the value of the livestock is over \$100,000.
5. A person that commits criminal conversion over property that is part of an agricultural operation commits a Class D felony instead of a Class A misdemeanor.
6. A person that enters an agricultural operation and takes photographs or video recordings without consent of the owner commits a Class A misdemeanor.

Felony Class	Potential Sentence	Average Length of Stay
Class A	20 to 50 years	9.1 years
Class B	6 to 20 years	3.7 years
Class C	2 to 8 years	About 2 years
Class D	6 months to 3 years	10 months

The average expenditure to house an adult offender was \$18,582 in FY 2012. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$78,318 in FY 2012.

Explanation of State Revenues: *Penalty Provisions:* If additional court cases occur and fines are collected, revenue to both the Common School Fund from fines and the state General Fund from court fees would increase.

The maximum fine is:

1. \$5,000 for a Class A misdemeanor.
2. \$10,000 for a Class A, B, C, or D felony.

If the case is filed in a circuit or superior court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44. Also if more defendants in

felony cases are detained in county jails prior to their court hearings, local expenditures for jail operations may increase.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: Department of Corrections.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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